

ALAMANCE COUNTY
VOLUNTARY FARMLAND PRESERVATION PROGRAM
ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of ALAMANCE COUNTY, NORTH CAROLINA entitled "VOLUNTARY FARMLAND PRESERVATION PROGRAM ORDINANCE."

ARTICLE II
AUTHORITY

The articles and sections of this program are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-743.

ARTICLE III
PURPOSE

The purpose of this ordinance is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

This ordinance establishes many benefits for participating farmers and other county residents. These benefits include:

- The program preserves and maintains agricultural areas within the county;
- The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells (this feature may help avoid conflicts between neighbors and potential nuisance claims);
- The program gives the farming community a better voice in Alamance County Commissioners decisions affecting farmland;
- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time;
- The program requires the Alamance County Commissioners to use farmland "as a last resort" if they are attempting to condemn county lands;

- The program would provide greenspace and natural resources as the county's population and development expands.
- The program maintains opportunities to produce locally grown food and fiber.

ARTICLE IV DEFINITIONS

The following are defined for purposes of this ordinance:

Advisory Board: Alamance County Agricultural Advisory Board.

Chairman: Chairman of the Alamance County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Alamance County Board of Commissioners.

ARTICLE V AGRICULTURAL ADVISORY BOARD

Creation

The Board of Commissioners establishes an Agricultural Advisory Board to implement the provisions of this program.

Appointments and Membership

The Agricultural Advisory Board shall consist of seven members appointed by the Alamance County Board of Commissioners.

1. Requirements

- (a) Each board member shall be a county resident and registered to vote in Alamance County.
- (b) Five of the seven members shall be actively engaged in farming.
- (c) The Board Members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District, the Cooperative Extension Service, the Natural Resource Conservation Services, the Farm Service Agency, and the Alamance County Farm Bureau, with an effort to have the broadest geographical representation possible.

2. Tenure. The members are to serve for terms of three years, except that the initial board is to consist of two appointee(s) for a term of one year, two appointees for terms of two years, and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years for a maximum of six consecutive years. Thereafter each member must be off of the board at least one year before being reappointed.
3. Vacancies. Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term from recommendations of above groups.
4. Removal for Cause. Any member of the Agricultural Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

Funding

The per diem compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners and funds shall be appropriated to the Advisory Board to perform its duties.

Advisory Board Procedure

1. Chairman

The Advisory Board shall elect a chairman and vice-chairman each year at its first meeting of the fiscal year. The chairman shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairman, the vice-chairman shall preside and shall exercise all the powers of the chairman. Additional officers may be elected as needed.

2. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

3. Advisory Board Year

The Advisory Board shall use the Alamance County fiscal year as its meeting year.

4. Meetings

Meetings of the Advisory Board shall be held at the call of the chairman and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least every two months and notice of any meetings to the members shall be in writing unless otherwise agreed to by all Advisory Board members.

5. Majority Vote

The concurring vote of a majority of the members of the Advisory Board shall be necessary to: reverse any order, requirement, decision, or determination of any administrative official or agency; to decide in favor of an applicant; or to pass upon any other matter on which it is required to act under this ordinance.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the Office of the Advisory Board and shall be a public record.

Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts.
2. Conduct public hearings.
3. Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the county that will affect agricultural districts.
4. Review and make recommendations concerning proposed amendments to this ordinance.
5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

1. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which meet the following standards:

- (1) The district, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation:

- ... 5 acres for horticulture use
- ... 10 acres for ag use
- ... 20 acres for forestry use

when considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.

- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with Article VII (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

Procedure for Notification

The Advisory Board, in cooperation with the county, shall provide notification to property owners, residents, and other interested persons within one mile and adjacent to any designated agricultural district. The purpose of such notification is to inform current and potential residents and property owners in and adjacent to an agricultural district, that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery, truck, tractor operations, livestock operations, sawing, and similar activities.

- (1) Types of Notification

- (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.

- (b) Maps identifying approved districts shall be provided to the Register of Deeds office, the Soil Conservation District Office, the Cooperative Extension office, Farm Service Agency, the Natural Resource Conservation Service, the Inspections Department, the Alamance County Planning Department.
- (c) The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds:

NOTICE TO REAL ESTATE PURCHASERS IN ALAMANCE COUNTY.

ALAMANCE COUNTY AGRICULTURAL DISTRICTS

Alamance County has established agricultural District to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery, tractor, truck operations, livestock operations, sawing, and similar activities may take place in these districts. This map can be obtained from the Register of Deeds office, Soil Conservation District Office, Cooperative Extension office, Farm Service Agency, the Natural Resource Conservation Service, the Inspections Department and the Alamance County Planning Office.

ARTICLE VII
QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

1. The farmland shall be real property.
2. The farm property shall be participating in the farm present-use-value taxation program established by G. S. 105-277.2 through 105.277.7, or is otherwise determined by the county to meet all the qualifications of this program set forth in G. S. 105-277.3.
3. The property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is

composed of soils that:

- a. are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
- b. have good soil qualities;
- c. are favorable for all major crops common to the county where the land is located;
- d. have a favorable growing season; and
- e. receive the available moisture needed to produce high yields for an average of eight out of ten years.

OR

Soils on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in G. S. 105-277.2 (1,2,3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies.

4. The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land.
5. The property is the subject of a conservation agreement, as defined in G. S. 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article VIII.

Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program shall submit written evidence that the property conforms with the requirements of Article VII (7) of this program. This written information shall be submitted to the Chairman of the Advisory Board or the designated staff person on forms provided by the board. The certification may be submitted at the time the owner applies for inclusion in a district.

ARTICLE VIII
APPLICATION, APPROVAL AND APPEAL PROCEDURE

1. Application Procedure

- a. A landowner may apply to participate in the program by making application to the chairman of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
- b. An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

2. Approval Process

- a. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within 90 days to approve or disapprove the application. The chairman shall notify the applicant by first class mail of approval or disapproval of participation in the district.
- b. Upon receipt of an application, the chairman will forward copies immediately to:
 - The Alamance County tax assessor's office, and
 - The Alamance County Soil and Water Conservation District and the Soil Conservation Service office. The offices shall evaluate, complete and return their copies to the chairman within 30 days of receipt.

3. Appeal

If an application is denied by the Advisory Board, the petitioner has 30 days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX
REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation Agreement based on non-compliance by the landowner subject to the same provisions as contained in Article VIII for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

ARTICLE X
PUBLIC HEARINGS

1. Purpose

Pursuant to N.C.G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board hold a public hearing on the proposed condemnation, this ordinance provides for such hearing.

2. Procedure

a. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Alamance County within five business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation to be held within 30 days of receipt of the request.

b. The Advisory Board shall meet to review:

- if the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved;
- alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.

3. The Advisory Board shall consult with the County Agricultural Extension Agent, U.S.D.A., Soil Conservation Service District Conservationist, the Alamance County Farm Bureau and may consult with any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.

4. Within 10 days after the public hearings, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.

5. Pursuant to N.C.G.S. 106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board with these time limitations.

ARTICLE XI
PUBLIC NOTICE

1. Procedure

Upon certification of qualifying farmland and designation of real property as a District, the Alamance County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such a tract is located within one aerial mile of a voluntary agricultural district.

2. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

ARTICLE XII
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within one aerial mile of the proposed development.

ARTICLE XIII
WAIVER OF WATER AND SEWER ASSESSMENTS

1. No Assessment

A landowner belonging to the district shall not be assessed for or required to connect Alamance County water and/or sewer systems.

2. Abeyance

Water and sewer assessments will be held in abeyance, without interest for farms whether inside or outside of a District until improvements on such property are connected to the water or sewer system for which the assessment was made.

3. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

4. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

5. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. 153A-201.

ARTICLE XIV
COUNTY LAND-USE PLANNING

1. Signed Registration

Alamance County shall require persons applying for a building permit or persons registering a deed to sign the following statement which shall be maintained at the office of the Advisory Board: "I certify that I have reviewed the most current Alamance County Agricultural Districting Map found in the Register of Deeds Office. I have noted the proximity of Agricultural District Boundaries to my property. I understand that activities such as pesticide spraying, manure spreading, machine operation, livestock operations and other common farming activities may occur at any time in these areas."

2. Condemnation Proceedings

Prior to initiating condemnation proceedings which would convert land in a District to non-farm uses, the county or any other local unit of government shall submit to the Advisory Board a statement that the governmental unit has considered alternatives to condemning farmland in the District.

ARTICLE XV
CONSULTATION AUTHORITY

The Advisory Board may consult with the Cooperative Extension Office, the Alamance County Soil Conservation Service office, the North Carolina Department of Agriculture, the Alamance County Farm Bureau, the North Carolina Farm Bureau, and any other such agency the Advisory Board deems necessary to properly conduct its business.

ARTICLE XVI
NORTH CAROLINA AGENCY NOTIFICATION

1. Record Annually with the Department of Agriculture

A record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the county shall submit a written report to the Commissioner of Agriculture concerning the status, progress and activities of the county's Farmland Preservation Program including District information regarding:

- a. Number of landowners enrolled
- b. Number of acres applied
- c. Number of acres certified
- d. Number of acres denied
- e. Date certified

ARTICLE XVII
LEGAL PROVISIONS

1. Severability

If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

2. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Alamance County, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

3. Amendments

This ordinance may be amended from time to time by the Board of Commissioners.

ARTICLE XVIII
ENACTMENT

The Alamance County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

ARTICLE XIX
REVOCATION OF PRESERVATION AGREEMENT

By written notice of the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revise the same Preservation Agreement based on non-compliance by the landowner subject to the same provisions as contained in Article IX for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

Adopted this the _____ day of _____ 2000.

Motion of adoption by _____ and

seconded by _____.

ALAMANCE COUNTY BOARD OF COMMISSIONERS

(Chairman)

ATTEST:

(Clerk to Board of Commissioners)

Approved as to form:

(County Attorney)